

## **Exhibit E**

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA

4 v.

11 Cr. 666 (LAP)

5 JOHN DOE,

Arraignment

6 Defendant.

7 -----x  
8 New York, N.Y.  
9 August 5, 2011  
11:35 a.m.

10 Before:

11 HON. LORETTA A. PRESKA

12 District Judge

13 APPEARANCES

14 PREET BHARARA

15 United States Attorney for the  
16 Southern District of New York

JAMES PASTORE

17 Assistant United States Attorney

18 FEDERAL DEFENDANTS OF NEW YORK, INC.

19 Attorneys for Defendant

20 BY: PHILIP L. WEINSTEIN

21 PEGGY CROSS  
22  
23  
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1 interests of justice.

2 MR. PASTORE: Your Honor, I did want to address bail  
3 for a moment.

4 THE COURT: Yes, sir.

5 MR. PASTORE: This is a defendant who has been charged  
6 with serious crimes. He is facing a significant amount of jail  
7 time. I wanted to briefly address why the government continues  
8 to believe that the bail conditions set by Magistrate Judge  
9 Cott on June 8th continue to be appropriate.

10 Since literally the day he was arrested, the defendant  
11 has been cooperating with the government proactively. Those  
12 efforts have involved cooperation against targets of national  
13 and international interests. Some of the groups against whom  
14 the defendant is cooperating are known to retaliate against  
15 people who cooperate with the government in ways ranging from  
16 the mundane, for example, ordering hundreds of pizzas to  
17 someone's house, to much more serious: Calling in hostage  
18 situations in part by using family information and having a  
19 SWAT team show up at that person's home. It's actually called  
20 "swatting." It's fair to say that this defendant has already  
21 incurred a significant amount of personal risk by deciding to  
22 cooperate.

23 As to the cooperation itself, because it involves  
24 efforts against targets both here and abroad, the defendant has  
25 literally worked around the clock with federal agents. He has

1 been staying up sometimes all night engaging in conversations  
2 with co-conspirators that are helping the government to build  
3 cases against those co-conspirators.

4 During this time the defendant has been closely  
5 monitored by the government. We have installed software on a  
6 computer that tracks his online activity. There is also video  
7 surveillance in the defendant's residence. So, all of his  
8 activities have been closely monitored, which has obviously  
9 been an imposition not only on him but he also has two  
10 daughters that he takes care of, is the foster parent for them.

11 The results of this carefully monitored cooperation  
12 have already been quite positive. To give the Court some sense  
13 of it, the defendant receives information about security  
14 vulnerabilities from a network, literally a worldwide network  
15 of criminals, cybercriminals. On a day-to-day basis the  
16 defendant can sometimes receive upwards of two dozen  
17 vulnerabilities. Working with the FBI, that information has  
18 been used to patch more than 150 vulnerabilities to date.

19 When I say "patch," I mean the FBI has been able to  
20 reach out to victims sometimes before the hack has actually  
21 occurred, other times after the hack has occurred but in an  
22 effort to mitigate the harm from that hack. That is, frankly,  
23 something that we would probably not have been in a position to  
24 do without the defendant's cooperation.

25 The defendant's information is also helping the

1 government close in on several prominent cybercriminals.

2 So, there is every reason to believe that by  
3 continuing the defendant's bail, by allowing him to continue to  
4 mitigate harm from cyberattacks, to continue to develop  
5 evidence against other targets, that will be able to mitigate  
6 cybercrime and also apprehend some pretty serious  
7 cybercriminals.

8 The defendant has been compliant with his bail  
9 conditions for more than two months. I think he has shown that  
10 at this point he is not a risk of flight, nor is he presently a  
11 danger to the community.

12 For those reasons, the government respectfully submits  
13 that bail be continued as set by Magistrate Judge Cott.

14 THE COURT: So ordered.

15 Anything else today, counsel?

16 MR. PASTORE: Nothing further from the government.

17 MS. CROSS: No. Thank you, your Honor.

18 THE COURT: The record remains sealed as we have  
19 discussed.

20 (Adjourned)